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November 24, 2021

Federal Election Commission  
Attn: FOIA Requester Service Center  
1050 First Street, NE  
Washington, DC 20463

**Re: Freedom of Information Act (FOIA) Request**

Dear Sir/Madam:

We represent the National Rifle Association Political Victory Fund (NRA-PVF) and the National Rifle Association Institute for Legislative Action (NRA-ILA) (collectively “the NRA entities”) in this matter. This is a request for records under the Freedom of Information Act (hereinafter “FOIA”). We are requesting records created or dated between the dates of July 1, 2018 and November 24, 2021 relating to the following Matters Under Review (MURS): 7427, 7497, 7524, and 7553.

As the Commission is aware, the Requestors, as well as all named Respondents in the above-referenced MURs, have waived all rights to confidentiality under 52 U.S.C. § 30109(a)(12). Given that such confidentiality rights have been waived, we request the following documents:

1. Any and all communications between Commissioners Weintraub, Broussard, Walther, Dickerson, Trainor, and Cooksey, as well as any of their staff, regarding the above-referenced MURs and/or the NRA entities.
2. Any and all communications between Commissioners Weintraub, Walther, Broussard, and former Commissioners Petersen, Hunter, and Goodman as well as any of their staff, regarding the above-referenced MURs and/or the NRA entities.
3. Any and all communications between any Commissioner and the Office of General Counsel’s Office, including but not limited to Lisa Stevenson, Charles Kitchner, and/or any other attorney of the Office of General Counsel assigned to the above-referenced MURs, regarding the above-referenced MURs and/or the NRA entities.
4. Any and all legal documents, including but not limited to General Counsel Reports, Statements of Reason, Factual and Legal Analysis, or other supporting legal document associated with the above-referenced MURs and/or the NRA entities.

November 23, 2021  
Page 2

5. Any and all administrative documents, including but not limited to agendas, associated with the above-referenced MURs and/or the NRA entities.
6. Any and all vote certifications or other votes on record regarding the above-referenced MURs and/or the NRA entities.
7. Any and all communications between Commissioners Weintraub, Broussard and/or Walther with any outside organization, including but not limited to Campaign Legal Center and/or Giffords, regarding the above-referenced MURs and/or the NRA entities.
8. Any and all communications between Commissioner Weintraub, Broussard and/or Walther with any reporter or representative of a media organization regarding the above-referenced MURs and/or the NRA entities.

There has been ongoing press coverage regarding the intentions of certain Commissioners to assist certain politically aligned organizations with their efforts to materially alter FECA and Commission regulations. Specifically, three Commissioners, led by Commissioner Ellen Weintraub, apparently refuse to close case files in certain matters after the Commission has voted on their merits and failed to garner four votes to resolve them.<sup>1</sup> These matters, known by some Commissioners as “zombie matters,”<sup>2</sup> have left Respondents in limbo regarding the outcome of their cases. We are under the belief that the above-referenced MURs are part of those “zombie matters.”

Worse yet, in certain cases, including in *Giffords v. FEC*, No. 1:19-cv-1192 (D.D.C. 2019), these three Commissioners appear to be defying clear Court order to decide these MURs, with what appears to be the intent to create a pathway for these aligned organizations to sue Respondents via private action under 52 U.S.C., § 30109(a)(8)(c).<sup>3</sup>

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<sup>1</sup> See, e.g. Shane Goldmacher, *Democrats’ Improbable New F.E.C. Strategy: More Deadlock Than Ever*, THE NEW YORK TIMES (June 8, 2021) (“Here is what has been happening behind closed doors, according to people familiar with the commission’s private executive sessions: First, the Democrats are declining to formally close some cases after the Republicans vote against enforcement. That leaves investigations officially sealed in secrecy and legal limbo. Then the Democrats are blocking the F.E.C. from defending itself in court when advocates sue the commission for failing to do its job.”); Paul Bedard, *FEC GOP Targets Democrat’s ‘Zombie’ Blockade*, THE WASHINGTON EXAMINER (June 11, 2021) (“The effort targets a power play by Democratic Commissioner Ellen Weintraub, whose six-year term ended in 2008 but was never replaced. She is behind a new trend at the agency to keep open enforcement cases that Republicans vote against in 3-3 ties and then block the FEC from defending itself when the cases go to court for resolution.”)

<sup>2</sup> Commissioner Sean J. Cooksey, Motion to Amend Directive 68 to Include Additional Information in Quarterly Status Reports to Commission (June 3, 2021).

<sup>3</sup> Goldmacher, *supra* Note 1.

November 23, 2021  
Page 3

These efforts by these three Commissioners directly impact the Requestors, as they are subject to private litigation as a result of these Commissioners' actions. Therefore, we also request the following information:

1. All documents concerning or reflecting the efforts of the Commission to conform with the district court's Order in *Giffords v. FEC*, No. 1:19-cv-1192 (D.D.C. Sept. 30, 2021).
2. The FEC's Office of General Counsel memorandum in this matter setting forth its recommendation whether to appeal the September 30, 2021 decision of the district court.
3. Any and all communications by Commissioner Weintraub, Broussard, and/or Walter with any outside entity, including but not limited to any and all staff at Campaign Legal Center, Citizens for Responsibility and Ethics in Washington (CREW), Giffords, and Democracy 21, regarding litigation by the Commission.
4. Any and all communications by Commissioner Weintraub, Broussard, and/or Walter with any news entity, including but not limited to Campaign Legal Center, Citizens for Responsibility and Ethics in Washington (CREW), Giffords, and Democracy 21, regarding litigation by the Commission.
5. Any and all communications by Commissioner Weintraub, Broussard, and/or Walter with Adav Noti, Brendan Fischer, Sandhya Bathija, J. Adam Skaggs, David Pucino, Molly Danahy, Mark Gaber, Kevin Hancock, Megan McAllen, David Kolker, Catherine Hinckley Kelley, and Trevor Potter regarding litigation by the Commission.
6. Any and all communications between Commissioner Weintraub and/or her staff and Shane Goldmacher regarding litigation by the Commission.

I am requesting the records as part of ongoing litigation, specifically *Giffords v. National Rifle Association Political Victory Fund, et. al*, No.1:21-cv-02887 (D.D.C. 2021) and *Giffords v. FEC*, No. 1:19-cv-1192 (D.D.C. 2019). Requestors will pay any and all fees associated with obtaining the above requested records.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes or any meetings, telephone conversations, or discussions. Our request includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

November 23, 2021  
Page 4

If it is your position that any portion of the requested records is exempt from disclosure, we request that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert denied, 415 U.S. 977 (1974). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dept. of the Air Force, et al.*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If you have any questions regarding this request, my daytime telephone number is 202-659-6944. My email address is [kreynolds@dickinson-wright.com](mailto:kreynolds@dickinson-wright.com). Thank you for your consideration of this request.

Sincerely,



Katherine N. Reynolds  
*Counsel for the National Rifle Association Political Victory Fund and National Rifle Association  
Institute for Legislative Action*